

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS  
Boston Division

_____	)	
JEAN ISME,	)	
Plaintiff,	)	
	)	
v.	)	
	)	C.A. NO: 1:18-cv-12537
HOME DEPOT U.S.A., INC.,	)	
Defendant/Third-Party Plaintiff,	)	
	)	
ANNETT HOLDINGS, INC. D/B/A TMC	)	
TRANSPORTATION,	)	
Third-Party Defendant.	)	
_____	)	

**THIRD-PARTY DEFENDANT'S ANNETT HOLDINGS, INC. D/B/A TMC**  
**TRANSPORTATION'S NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. § 1446, the Third-Party Defendant, Annett Holdings, Inc. d/b/a TMC Transportation. ("TMC"), by and through its attorneys, submits this Notice of Removal:

1. The Plaintiff, Jean Isme ("Isme"), Third-Party Plaintiff, Home Depot U.S.A., Inc. ("Home Depot"), and TMC are parties to the civil action entitled *Isme v. Home Depot U.S.A., Inc., et al.*, Suffolk Superior Court, Civil Action No. 1884CV02196F. TMC was served with the Summons and the Third-Party Complaint sometime on or after November 11, 2018. A copy of the Third-Party Complaint is attached as Exhibit A.

2. This case is removable pursuant to 28 U.S.C. § 1332 because the parties are citizens of different states and the amount in controversy is more than \$75,000.

3. Isme is a resident of Massachusetts. Third-Party Compl. ¶ 1. Home Depot is a Georgia corporation with a principal place of business in Atlanta, Georgia. Third-Party Compl. ¶ 2. TMC is an Iowa corporation with a principal place of business in Des Moines, Iowa. Third-Party Compl. ¶ 3.

4. Isme alleges that as a result of a March 17, 2017 incident in which he was injured while assisting in loading lumber onto a truck, he suffered serious injuries when a piece of lumber fell off the truck and struck him in the head. Third-Party Compl. ¶¶ 6, 7. Given these allegations, Isme has alleged damages and injuries that, more likely than not, exceed the amount in controversy of \$75,000. *See Gabrielle v. Allegro Resorts Hotels*, 210 F. Supp. 2d 62 (D.R.I. 2002) (holding that the amount in controversy was more than \$75,000—even though the complaint did not allege a precise amount of damages—where the plaintiffs alleged that they suffered bodily injuries requiring medical treatment and resulting in disability).

5. TMC desires to remove this action to the District of Massachusetts – Boston Division, which is the district court for the district and division within which the action is now pending. 28 U.S.C. § 1446(a).

6. After the filing of this Notice of Removal, (a) TMC’s counsel will give written notice of the filing of this Notice of Removal to Isme and Home Depot’s counsel; (b) a copy of this Notice of Removal will be filed with the Clerk of the Suffolk Superior Court; and (c) certified copies of the pleadings filed with the Suffolk Superior Court will be filed with this Court.

WHEREFORE, TMC respectfully requests that this Honorable Court remove the action now pending in the Suffolk Superior Court to this Court.

Third-Party Defendant,  
ANNETT HOLDINGS, INC. D/B/A TMC  
TRANSPORTATION  
By its attorneys,

/s/ Susan E. Bochnak

Andrew J. Fay (BBO # 550058)  
Susan E. Bochnak (BBO # 681406)  
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Dated: December 10, 2018

**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the CM/ECF system will be sent electronically to the registered participants as identified in the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on December 10, 2018.

/s/ Susan E. Bochnak